

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY BROWN,

Plaintiff,

v.

F. RODRIGUEZ, et al.,

Defendants.

No. 2:19-cv-1840 CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).
6 When considering whether a complaint states a claim upon which relief can be granted, the court
7 must accept the allegations as true, Erickson v. Pardus, 551 U.S. 89, 93-94 (2007), and construe
8 the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes, 416 U.S. 232,
9 236 (1974).

10 In his complaint, plaintiff asserts that on certain occasions over the course of about two
11 weeks in 2019 he was denied Hilal meat in his meal by certain defendants. For example, plaintiff
12 asserts he was denied Hilal meat by defendant Wick on June 6th, 7th and 8th, and by defendant
13 Ruiz on June 1st and 2nd.

14 The court finds that the allegations in the complaint fail to state a claim upon which relief
15 can be granted because plaintiff has not alleged sufficient injury under the under the Free
16 Exercise Clause of the First Amendment. In order to state a claim premised upon the denial of
17 the exercise of religion, the burden placed on the inmate's religious exercise by a defendant's
18 actions must be substantial. Hernandez v. Comm'r, 490 U.S. 680, 699 (1989). De minimis
19 (minor) burdens on the exercise of religion are not actionable. See, e.g., Rapier v. Harris, 172
20 F.3d 999, 1006 n.4. The allegations in plaintiff's complaint, by themselves, do not reflect a
21 substantial burden on plaintiff's practice of religion imposed by any particular defendant.

22 Accordingly, the complaint will be dismissed. Plaintiff will, however, be granted an
23 opportunity to state a claim upon which relief can be granted in an amended complaint.

24 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
25 complained of have resulted in a deprivation of plaintiff's federal rights. See Ellis v. Cassidy,
26 625 F.2d 227 (9th Cir. 1980). Also, in his amended complaint, plaintiff must allege in specific
27 terms how each named defendant is involved. For example, plaintiff must describe how each
28 defendant denied plaintiff a meal with Hilal meat. There can be no liability under 42 U.S.C. §

1 1983 unless there is some affirmative link or connection between a defendant's actions and the
2 claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976).

3 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to
4 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended
5 complaint be complete in itself without reference to any prior pleading. This is because, as a
6 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
7 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
8 longer serves any function in the case. Therefore, in an amended complaint, as in an original
9 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

10 In accordance with the above, IT IS HEREBY ORDERED that:

11 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is granted.

12 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
13 shall be collected and paid in accordance with this court's order to the Director of the California
14 Department of Corrections and Rehabilitation filed concurrently herewith.

15 3. Plaintiff's complaint is dismissed.

16 4. Plaintiff is granted thirty days from the date of service of this order to file an amended
17 complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil
18 Procedure, and the Local Rules of Practice. The amended complaint must bear the docket
19 number assigned this case and must be labeled "Amended Complaint." Failure to file an
20 amended complaint in accordance with this order will result in a recommendation that this action
21 be dismissed.

22 Dated: March 18, 2020

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24 CAROLYN K. DELANEY
25 UNITED STATES MAGISTRATE JUDGE
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